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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/642,347	08/18/2003	Linda E. Tiffany	011525-372	1912
21839 7	590 01/12/2005		EXAMINER	
	NE SWECKER & MAT	CORBIN, ARTHUR L		
POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			ART UNIT	PAPER NUMBER
			1761	

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 3°CPR 1.13(e), in no event, however, may a reply be timely field Extensions of time may be available under the provisions of 3°CPR 1.13(e), in no event, however, may a reply be timely field If the period for reply signofficed above is less than thinty (30) days, a reply which the statutory minimum of thinty (30) days will be considered simely, If the period for reply signofficed above is less than thinty (30) days, a reply which the field for reply is specified above is less than thinty (30) days, a reply which the statutory printing of the period							
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RESTRICTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-4, drawn to a potato piece, classified in class 426, subclass 144.

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- II. Claims 5-12, drawn to a process of making potato pieces, classified in class 426, subclass 293.
- III. Claims 13-15, drawn to a microwavable carton, classified in class 219, subclass 720.
- IV. Claim 16, drawn to a method of reconstituting frozen potato pieces, classified in class 426, subclass 241.

The inventions are distinct, each from the other because:

- 2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make a materially different product, e.g. a frozen potato product.
- 3. The product in is not packaged in a microwavable container, as in III, and the microwavable container can used to heat food products other than potatoes, e.g. pasta products.
- 4. The process in II. does not require use of a microwavable package, as in III.
- 5. Inventions III and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the

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process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process, e.g. a process of heating pasta products.

- 6. Inventions IV and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make a materially different product, e.g. a microwave heated potato product.
- 7. The process in II does not require heating the potato pieces with microwave energy, as in IV.
- 8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Monday - Friday from 10:30 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A. Corbin/af January 10, 2005 ARTHUR L. CORBIN PRIMARY EXAMINER

1-10-05